

WAGANAKISING ODAWAK STATUTE 2014-**
MIGIZI (EAGLE) PROTECTION

SECTION I. SHORT TITLE

 This Statute shall be known and cited as the Little Traverse Bay Bands of Odawa Indians "Migizi Protection Act."

SECTION II. PURPOSE

 The purpose of this Statute is to provide protections and thereby maintain a continued presence of bald eagles and other raptors of cultural significance on the LTBB Reservation for the next seven generations. This Statute establishes procedures and restrictions to manage and protect Migizi and other raptors.

SECTION III. DEFINITIONS

- A.** "1836 Ceded Territory" means all lands and waters ceded in the 1836 Treaty of Washington, 7 Stat. 491, as described in Article First, that are not LTBB Reservation lands, or lands within the reservation of another federally recognized Tribe.
- B.** "Commission" or "NRC" means the Natural Resource Commission.
- C.** "Department" means the Natural Resource Department.
- D.** "Director" means the director of the Natural Resource Department.
- E.** "Disturb" means to agitate or bother an eagle to a degree that causes, or is likely to cause, based on the generally accepted scientific information:
- a. injury to an eagle,
- b. a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or
- c. nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.
- F.** "Endangered" means a species which is seriously threatened with extirpation throughout all or a significant portion of its range.
- G.** "Firearm" means a weapon from which dangerous projectiles may be propelled by use of explosives, gas, or air as a means of propulsion.
- H.** "Government Entities" means all agencies of tribal, federal, state and local governments.

- 1 **I.** "Landowner" means any individual, private company, partnership, nonprofit, municipal,
2 corporate, city, county, tribal or state agency or entity that exercises control over a bald
3 eagle habitat.
4
- 5 **J.** "Livestock" means cattle, horses, poultry, and similar animals kept for domestic use but
6 not as pets, especially on a farm or ranch.
7
- 8 **K.** "LTBB Reservation" means all lands and waters as described in the LTBB Constitution
9 Article III (H).
10
- 11 **L.** "Necropsy" means the examination of a body after death; autopsy.
12
- 13 **M.** "Nest Tree" means any tree that contains a bald eagle nest or has contained a nest.
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- 15 **N.** "Nest Site" means any physical features surrounding bald eagle nests that are important
16 to normal breeding behavior. These include alternate and potential nest trees, perch trees,
17 vegetative screening, foraging area, frequently used flight paths, and sources of
18 disturbance. Nest Site also includes to the territory defended by a breeding pair of eagles.
19
- 20 **O.** "Non-Member Indian" means a person who is an enrolled member of a federally
21 recognized Indian Tribe other than the Little Traverse Bay Bands of Odawa Indians.
22
- 23 **P.** "Perch Tree" means a tree consistently used by eagles. It is often located close to a nest or
24 feeding site and used for resting, hunting, consumption of prey, mating display and as a
25 sentry post to defend the nest.
26
- 27 **Q.** "Predicides" means chemicals used to kill or control problem wildlife.
28
- 29 **R.** "Raptor" means any bird of prey.
30
- 31 **S.** "Reservation Trust Properties" means any land held in trust for LTBB by the United
32 States.
33
- 34 **T.** "Take" means pursue, shoot, shoot at, poison, wound, capture, trap, collect, molest or
35 disturb.
36
- 37 **U.** "Threatened" means a species that could become Endangered without active management
38 or the removal of threats.
39
- 40 **V.** "Tribe" or "LTBB" means the Waganakising Odawa, also known as the Little Traverse
41 Bay Bands of Odawa Indians.
42

- 1 **W.** "Tribal Court" means the LTBB Court established under Article IX of the LTBB
2 Constitution.
3
4 **X.** "Tribal Citizen" means an enrolled member of LTBB.
5
6 **Y.** "Wildlife" means all creatures, not human, wild by nature, endowed with sensation and
7 power of voluntary motion, including but not limited to quadrupeds, mammals, birds,
8 fish, amphibians, reptiles, crustaceans, insects, and mollusks.
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12 **SECTION IV. JURISDICTION**
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14 In accordance with Article IV (B) of the LTBB Constitution, the jurisdiction of the Tribe
15 shall extend to all territory set forth in Section (A) of this Article [the LTBB Reservation and
16 trust lands] and to any and all persons or activities therein, based upon the inherent sovereign
17 authority of the Little Traverse Bay Bands of Odawa Indians and Federal law. Without
18 conceding any of LTBB's Constitutional jurisdiction, the regulation of wildlife, fish and other
19 natural resources activities under this Statute will extend to the following persons and areas:
20

- 21 **A.** LTBB Citizens and Non-Member Indians anywhere within the LTBB Reservation;
22
23 **B.** All persons within Reservation Trust Properties; and
24
25 **C.** LTBB Citizens throughout the 1836 Ceded Territory.
26

27 This Statute does not preclude any concurrent federal jurisdiction under applicable federal law.
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30 **SECTION V. SPECIES MANAGEMENT**

- 31 **A.** Little Traverse Bay Bands of Odawa Indians Reservation Migizi (Bald Eagle)
32 Management Plan. The LTBB Natural Resource Department in conjunction with the
33 NRC shall create a Migizi (Bald Eagle) Management Plan for the LTBB Reservation.
34 The Plan shall be updated every 5 years or as necessary.
35
36 **B.** Site Management Plans. Each of the Bald Eagle nesting sites within the LTBB
37 Reservation shall have a specific site management plan. The purpose of the site
38 management plan is to provide for the protection of specific Bald Eagle habitat in such a
39 way as to recognize the special characteristics of the site and the Landowner's property
40 rights, goals and pertinent options. To this end, every Landowner shall have fair access to
41 the process including potential incentives and benefits that may be available including

1 Landowner incentive and compensation mechanisms through which the existing eagle
2 habitat can be maintained or enhanced.

- 3
4 C. Research. The LTBB Natural Resource Department shall be responsible for conducting
5 and approving research proposed by outside entities within the LTBB Reservation
6 Boundaries. Research on Bald and Golden Eagles shall be for the purposes of increasing
7 understanding of eagles and their populations and be used to develop and implement
8 eagle management and protection actions.
9

10 **SECTION VI. ACQUISITION OF BALD EAGLE HABITAT**
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- 12 A. The following criteria and priorities shall be considered by LTBB when it is
13 contemplating acquiring an interest in a bald eagle habitat. The NRD will evaluate
14 potential properties according to the criteria and provide a recommendation to the
15 Executive whom upon concurrence would forward to the Legislative Branch for their
16 consideration.
17

18 Site considerations:

- 19 1) Relative ecological quality, as compared to similar habitats
20 2) Ecological viability -- the ability of the habitat and eagle use to persist over time.
21 3) Defensibility -- the existence of site conditions adequate to protect the eagle habitat
22 from unnatural encroachments
23 4) Manageability -- the ability to manage the site to maintain suitable eagle habitat
24 5) Proximity to food sources
25 6) Proximity to other protected eagle habitat
26 7) Proximity to NRD managed land or other public land
27 8) Eagle population density and history of eagle use in the area
28 9) The natural diversity of native species, plant communities, aquatic types, and
29 geologic features on the site.
30

31 Other considerations:

- 32 a) Ownership
33 b) Degree of threat
34 c) Availability of funding
35 d) Existence of willing donor or seller and prior NRD interest
36 e) Cost
37

38 In general, priority shall be given to the most threatened high-quality eagle habitats with
39 associated natural values which require the least management.
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41 **SECTION VII. USE OF EAGLE OR NON-EAGLE FEATHERS OR PARTS BY**
42 **LTBB MEMBERS.**

- 1
- 2 A. LTBB has a strong spiritual connection and reverence for the Migizi (Bald Eagle) and
- 3 hereby mandates that any Bald Eagle or Raptor found within the LTBB Reservation area
- 4 should remain with the Tribe. All incidents involving deceased or injured Bald Eagles or
- 5 Raptors recovered from the LTBB Reservation shall be investigated by conservation law
- 6 enforcement. Each deceased eagle discovered shall be turned in to the Department to
- 7 determine the need to have a necropsy preformed. All relevant scientific information that
- 8 can be recorded from the bird will be documented including banding information. All
- 9 Bald Eagle banding information shall be shared with the USGS Bird Banding Laboratory.
- 10
- 11 B. LTBB Culturally Significant Species Repository. LTBB recognizes the need for Tribal
- 12 Citizens to possess and use plants and animals for culturally significant purposes. LTBB
- 13 also recognizes that the availability of certain animal and animal parts may be limited or
- 14 restricted. LTBB seeks to provide Tribal Citizens with the opportunity to use animals and
- 15 animal parts donated to or acquired by the LTBB Natural Resource Department including
- 16 enforcement action. The parts may be distributed to LTBB Tribal Citizens on a first come
- 17 first serve basis and must be used for cultural purposes. LTBB Natural Resource
- 18 Commission shall develop procedures for the management and distribution of eagle,
- 19 raptor and other culturally significant species. LTBB Tribal Citizens may also continue to
- 20 apply for a feather/parts from the USFWS National Bald Eagle or other similar non-eagle
- 21 raptor repositories.
- 22
- 23 C. LTBB Tribal Citizens may use and possess eagle feathers and non-eagle raptor feathers
- 24 for culturally significant purposes. Tribal Citizens shall not be required to obtain a permit
- 25 for such use.
- 26
- 27

28 **SECTION VIII. PERMITS**

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- 30 A. The Natural Resource Department may, in accordance with Natural Resources Protection
- 31 Statute, WOS 2008-012, Section IX. SCIENTIFIC RESEARCH AND STUDY,
- 32 NUISANCE ANIMALS, issue permits to take, possess, inspect, sample, measure, count
- 33 or collect data on bald eagles or other non-eagle raptors within the LTBB Reservation
- 34 and/or throughout the 1836 Ceded Territory.
- 35
- 36 B. Federal Permits. In addition to LTBB Scientific Collectors permits, it may be necessary
- 37 to obtain Federally issued permit(s) from the United States Fish and Wildlife Service
- 38 and/or the United State Geological Survey (or their successors) in accordance with the
- 39 Migratory Bird Treaty Act.
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43 **SECTION IX. DEPREDAATION**

1
2 All reported incidents of livestock depredations by eagles or raptors shall be investigated by the
3 Department. The Department shall develop education materials and a procedure for addressing
4 eagle livestock depredation issues emphasizing the use of education, best management practices
5 and nonlethal controls.

6
7 The use of lethal control shall be prohibited.
8

9 **SECTION X. PROHIBITED ACTS**

10

11 It shall be unlawful to knowingly, or with disregard for the consequences, do any of the
12 following:

- 13 1. Sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any
14 time or in any manner any eagle or other raptor, alive or dead, or any part, nest, or egg
15 thereof;
- 16 2. Kill any eagles or raptor;
- 17 3. Take eagles or non-eagle raptors unless authorized via permit;
- 18 4. Disturb eagles while nesting unless authorized via permit;
- 19 5. Enter within 660 ft. of an active eagle nest, remove timber or create other disturbances
20 during the critical period unless authorized via permit;
- 21 6. Destroy or damage eagle nests or nesting trees unless authorized via permit;
- 22 7. Handle, capture, draw blood or conduct invasive/direct research on eagles or raptors
23 without prior authorization and a specific permit;
- 24 8. Gift or transfer an eagle feather or parts of an eagle to a non-tribal member; or
- 25 9. To reduce to possession an eagle feather or parts without a valid federal permit if the
26 person is not a member of a federally recognized Tribe.
27
28

29 **SECTION XI. PENALTIES**

30 Any person who violates this Statute or any corresponding regulation or permit, may be assessed
31 a penalty of not more than \$5,000 and/or up to one year in jail for each such violation. Violation
32 of this Statute constitutes a misdemeanor. Each violation shall be considered a separate offense.
33 No penalty shall be assessed unless such person is given notice and opportunity for a hearing
34 with respect to such violation.
35

36 **SECTION XII. SAVING CLAUSE**

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38 In the event that any phrase, provision, part, paragraph, subsection or section of this Statute is
39 found by a court of competent jurisdiction to violate the Constitution, laws, ordinances or
40 statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part,

DRAFT Eagle Protection Statute, Approved by NRC 9-11-13, Mark Up Reviewed and Approved 7-24-14,
Sponsored by Councilor Wemigwase and co-sponsored by Councilor Law –posted 121814

Secretary Shananaquet ____

1 paragraph, subsection or section shall be considered to stand alone and to be deleted from this
2 Statute, and the entirety of the balance of the Statute will remain in full and binding force and
3 effect.
4

5 **SECTION XIII. EFFECTIVE DATE**
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7 Effective upon signature of the Executive or 30 days after Tribal Council approval,
8 whichever comes first, or if the Executive vetoes the legislation, then upon Tribal Council
9 override of the veto.